

Internal Revenue bulletin

Bulletin No. 2001-32
August 6, 2001

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 2001-33, page 118.

Mutual life insurance companies; differential earnings rate. The differential earnings rate for 2000 and the recomputed differential earnings rate for 1999 are set forth for use by mutual life insurance companies to compute their income tax liabilities for 2000.

Rev. Rul. 2001-36, page 119.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 1274, 1288, and other sections of the Code, tables set forth the rates for August 2001.

Rev. Rul. 2001-37, page 100.

Low-income housing credit; satisfactory bond; "bond factor" amounts for the period July through September 2001. This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period July through September 2001.

T.D. 8955, page 101.

Final regulations under section 679 of the Code relate to transfers of property by U.S. persons to foreign trusts having one or more beneficiaries. In addition, the regulations revise section 1.958-1, direct and indirect ownership of stock, and amend section 1.958-2, constructive ownership of stock.

T.D. 8956, page 112.

Final regulations under section 684 of the Code relate to the recognition of gain on certain transfers to certain foreign trusts and estates. The regulations affect United States persons who transfer appreciated property to foreign trusts and estates. In addition, the regulations explain the application of section 684 and provide certain exceptions to the general rule of gain recognition.

EMPLOYEE PLANS

Notice 2001-46, page 122.

Nonapplication of nondiscrimination rules; certain church and governmental plans. This notice extends the relief relating to the application of nondiscrimination rules for certain church and governmental retirement plans. Notice 2001-9 modified.

Announcement 2001-82, page 123.

This announcement provides an alternative model amendment for proposed regulations (REG-130477-00 and REG-130481-00, 2001-11 I.R.B. 865) under section 401 of the Code, which certain qualified plan sponsors may adopt if they began making required minimum distributions for 2001 based on proposed regulations published in 1987.

Finding Lists begin on page ii.
Index for July begins on page iv.



Department of the Treasury
Internal Revenue Service

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities

and by applying the tax law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and proce-

dures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the first Bulletin of the succeeding semiannual period, respectively.

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Part III. Administrative, Procedural, and Miscellaneous

Extension of Relief Relating to Application of Nondiscrimination Rules for Certain Church Plans and Governmental Plans

Notice 2001-46

I. PURPOSE

This notice provides relief from the application of the nondiscrimination requirements of the Internal Revenue Code for certain church and governmental plans.

In particular, this notice extends the effective date of regulations under §§ 401(a)(4), 401(a)(5), 401(l), and 414(s) of the Internal Revenue Code for nonelecting church plans until further notice, but in no case earlier than the first plan year beginning on or after January 1, 2003.

In addition, this notice provides that certain governmental plans shall be deemed to satisfy §§ 401(a)(4), 401(a)(26), 401(k)(3), and 401(m) of the Code until the first day of the first plan year beginning on or after January 1, 2003. In accordance with this relief, the regulations relating to these provisions do not apply until plan years beginning on or after that date. This relief is available with respect to governmental plans within the meaning of § 414(d) other than plans of State and local governments or political subdivisions, agencies or instrumentalities thereof.

II. BACKGROUND

A. Church Plans

Section 414(e)(1) of the Code provides in general that the term “church plan” means a plan established and maintained for its employees (and their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under § 501. Pursuant to § 410(d), a church or convention or association of churches that maintains any church plan may make an election under § 410(d) to have certain Code provisions relating to participation, vesting, and funding, etc., apply to such church plan as if such provisions did not contain an exclusion for church plans. A church plan for which such an election has not been made (a “nonelecting church plan”) is not subject to these provisions.

Notice 2001-9, 2001-4 I.R.B. 375, provided that the regulations under §§ 401(a)(4), 401(a)(5), 401(l) and 414(s) would apply for nonelecting church plans in plan years beginning on or after January 1, 2002. For plan years beginning before that effective date, nonelecting church plans must be operated in accordance with a reasonable, good faith interpretation of these statutory provisions.

B. Governmental Plans

Section 414(d) of the Code provides that the term “governmental plan” means a plan established and maintained for its employees by the government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing. The term “governmental plan” also includes any plan to which the Railroad Retirement Act of 1935 or 1937 (the “Act”) applies and which is financed by contributions under that Act and any plan of an international organization which is exempt from taxation by reason of the International Organizations Immunities Act (59 Stat. 669).

Section 1505 of the Taxpayer Relief Act of 1997 (“TRA ’97”) generally provides that the nondiscrimination rules do not apply to State and local governmental plans. In particular, § 1505 amended the Code to provide that §§ 401(a)(3), 401(a)(4), and 401(a)(26) shall not apply to such plans. Section 1505 of TRA ’97 amended § 401(k) of the Code to provide that State and local governmental plans shall be treated as meeting the requirements of § 401(k)(3). In addition, § 1505(a)(3) of TRA ’97 amended § 410(c) of the Code to provide that governmental plans shall be treated as meeting the requirements of § 410 for purposes of § 401(a). This amendment to § 410(c), by its terms, is not limited to State and local governmental plans but applies to all governmental plans within the meaning of § 414(d).

Notice 2001-9 provided that governmental plans, other than plans maintained by State or local governments or political subdivisions or instrumentalities thereof, would be deemed to satisfy §§ 401(a)(4), 401(a)(26), 401(k)(3), and 401(m) of the Internal Revenue Code until the first day of the first plan year beginning on or after January 1, 2002. The notice also provided that the

regulations relating to these provisions would not apply until plan years beginning on or after that date.

III. EXTENSION OF EFFECTIVE DATE OF NONDISCRIMINATION REGULATIONS FOR NONELECTING CHURCH PLANS

The regulations under §§ 401(a)(4), 401(a)(5), 401(l), and 414(s) shall not apply to nonelecting church plans until further notice, but in no case earlier than the first plan year beginning on or after January 1, 2003. Nonelecting church plans must be operated in accordance with a reasonable, good faith interpretation of these statutory provisions until the time such notice is provided.

IV. EXTENSION OF RELIEF RELATING TO APPLICATION OF NONDISCRIMINATION RULES FOR CERTAIN GOVERNMENTAL PLANS

Under the relief provided by this notice, governmental plans within the meaning of § 414(d), other than those maintained by State or local governments or political subdivisions, agencies or instrumentalities thereof, shall be treated as satisfying the requirements of §§ 401(a)(4), 401(a)(26), 401(k)(3), and 401(m) until the first plan year beginning on or after January 1, 2003. In accordance with this relief, the regulations under §§ 401(a)(4), 401(a)(26), 401(m), 410(b) and 414(s), and the regulations implementing § 401(k)(3), shall apply to governmental plans described in this section IV only for plan years beginning on or after January 1, 2003.

V. EFFECT ON OTHER DOCUMENTS

Notice 2001-9 is modified.

DRAFTING INFORMATION

The principal author of this notice is Diane S. Bloom of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans’ taxpayer assistance telephone service at (202) 283-9516 or (202) 283-9517, between the hours of 1:30 p.m. and 3:30 p.m. Eastern Time, Monday through Thursday. Ms. Bloom may be reached at (202) 283-9888. These telephone numbers are not toll-free.